

# EXHIBIT A

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
COLUMBIA DIVISION

Brian Bowen, II, )  
 )  
 plaintiff, )  
 )  
 -versus- ) 318-cv-03118  
 ) February 3, 2021  
 Adidas America Inc., ) Columbia, SC  
 James Gatto, Merl Code, )  
 Christian Dawkins, Munish )  
 Sood, Thomas Gassnola, ) \*\* also cross claim \*\*  
 Christopher Rivers, )  
 Gatto, Merl Code, )  
 )  
 DEFENDANTS. )  
 -----)

BEFORE THE HONORABLE JOSEPH F. ANDERSON, JR.  
UNITED STATES DISTRICT JUDGE, PRESIDING  
motion hearing

A P P E A R A N C E S:

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and cross claim W Mullins McLeod, esq.  
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1 For the Defendant: Terry Allan Finger, esq.  
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14 Court Reporter: Kathleen Richardson, RMR, CRR  
15 United States Court Reporter  
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16 Columbia, SC 29201

17 STENOTYPE/COMPUTER-AIDED TRANSCRIPTION

18 \*\*\* \*\*

1           THE COURT: We are here today in the civil case of  
2 Brian Bowen, Junior, against Adidas and others. It is Civil  
3 Docket 3:18-3118. We have a variety of discovery motions to  
4 consider and also a proposal to amend the scheduling order to  
5 some extent.

6           Mr. Terry Finger, who represents one of the defendants,  
7 is listening in my phone. He called me and informed me that  
8 he did not have any argument to make today, he's not the  
9 subject of any of the discovery motions, and I told him he  
10 did not need to drive up from Hilton Head just to sit in the  
11 courtroom.

12          Also, Mr. Taft is in New York. He represents I believe  
13 Adidas, and he says if he flies down here and goes back,  
14 he'll have to quarantine for 14 days and can't see his  
15 children, so I excused his attendance. And then there is a  
16 news reporter on the line.

17          We got directives from Washington early in the shutdown  
18 that if we conducted a hearing in whole or in part remotely,  
19 the news media has a right to participate remotely. So there  
20 is a news reporter on the line to just listen only.

21          So with that, let's get into these motions. I'd like to  
22 first...

23           THE CLERK: Mr. Haney is here. He represents  
24 Christian Dawkins. Mr. Finger is his local counsel.

25           THE COURT: Okay. So Mr. Haney, you are here for

1       that defendant.

2               MR. HANEY: I am, Your Honor.

3               THE COURT: Your local counsel is down in Hilton  
4 Head listening by phone.

5               MR. HANEY: Yes, sir.

6               THE COURT: Thank you for that correction. All  
7 right. Before we get into the motion, I'd like to find out  
8 about the exact status of the New York criminal matters. We  
9 pulled up the docket and it's very confusing. But it  
10 appears -- and correct me if I misstate this -- there were  
11 two cases filed close in time assigned to two different  
12 district judges. Both of them have been tried to conclusion.  
13 One has gone up on appeal. The convictions were affirmed and  
14 there is a petition for re-hearing pending. The other one is  
15 on appeal pending appellate review. Is that correct?

16              MR. HANEY: Your Honor, I'm involved. I was  
17 involved in both of these trials in New York, and that is --  
18 this is--

19              THE COURT: Hold on. Does the court reporter know  
20 the names of all these? You've got a seating chart? All  
21 right. Go ahead.

22              MR. HANEY: Thank you, Your Honor. I was involved  
23 in both trials in New York and that is correct. The cases  
24 were filed around the same time. They were tried on  
25 different -- through different trials. The Gatto case that

1 was tried first is -- there's a motion for reconsideration.  
2 That is also pending. The second trial, which is the Evans  
3 trial, that's up on appeal right now. There's been no  
4 decision made. Both cases are still technically on appeal.

5 THE COURT: All right.

6 MR. HANEY: Thank you, Your Honor.

7 THE COURT: All right. Good. Now, also Ms. Floyd,  
8 my courtroom deputy, says she got a call this morning from  
9 Mr. Richardson to tell me that the cross Motions to Compel  
10 Discovery by Bowen, Jr. against Adidas and Adidas back  
11 against Bowen, Jr. have been fully resolved. Is that  
12 correct?

13 MR. RICHARDSON: Your Honor, in clarification this  
14 morning, the Adidas Motion to Compel the Plaintiffs is  
15 completely resolved with the understanding that the expert  
16 report that's being proposed for the Plaintiffs to provide  
17 the expert disclosures on February 22nd, which is just a few  
18 weeks away, would provide us all that we need on the damages  
19 calculations and the supporting information.

20 And with that expert disclosures happening in  
21 February 22nd, we believe that all the other issues in  
22 Adidas's Motion to Compel are resolved.

23 THE COURT: All right. I thought the expert  
24 disclosure was January 22nd.

25 MR. RICHARDSON: Your Honor, that is correct. And



1 deny that request. All right.

2 Now let's get on -- before we get to the Fifth Amendment  
3 issue, let's get to the documents that are under seal up in  
4 New York. And that is the motion by Mr. Dawkins -- I'm  
5 sorry, motion against Mr. Dawkins. Both judges in both cases  
6 entered orders sealing certain records, and they are still  
7 under seal while the appeal is pending. Is that correct?

8 MR. RAM: That's my understanding. Let Mr. Haney  
9 address the status of those protective orders.

10 THE COURT: All right.

11 MR. HANEY: That is correct, Your Honor, and I did  
12 include both protective orders in my responsive pleadings in  
13 Exhibit A.

14 THE COURT: Right.

15 MR. HANEY: They were ordered November 28th, 2017,  
16 which my position is regrettably we're encumbered by that  
17 order. I would more than welcome to turn over that  
18 information, but if I did, I submit--

19 THE COURT: I understand you there. Here's my  
20 question. Can I order both sides, the plaintiff and the  
21 defendant, to go to New York and ask the judge, file a joint  
22 motion there asking the judge to unseal those documents to be  
23 used in this litigation with the understanding I will  
24 immediately place a seal on those documents down here? I  
25 think that's better than me calling the New York judge.

1 I think both parties ought to jointly go to New York and  
2 file a motion saying I determined they are relevant in this  
3 case or may be relevant and I can't delay my case  
4 indefinitely while that criminal process plays out because  
5 who knows how long that could be. It goes up --

6 MR. HANEY: I would -- I'm sorry, Your Honor.

7 THE COURT: -- on a Petition for Cert, we could  
8 wait for a year and a half on a Petition for Cert to the  
9 Supreme Court. So I, you know, I can't wait that long, so --  
10 what's the -- does anybody have any problem with me directing  
11 both parties, since both of you want this information, to  
12 file a joint motion with both judges in New York asking for a  
13 partial lift of the seal so that the documents can be  
14 produced down here to the Plaintiff with the clear  
15 understanding that I'll put an identical Protective Order on  
16 the case on the documents down here?

17 MR. RAM: Your Honor, I think if an order was  
18 drafted in such a manner that would give the two district  
19 judges in New York that level of comfort...

20 THE COURT: I can put all that in a written order.  
21 Yes, I can do that.

22 MR. HANEY: Your Honor, that was my suggestion in  
23 advance of this matter today with Mr. Ram. I do want to note  
24 to the Court, I think that whatever evidence he's seeking,  
25 though it's there, it is cumulative. We had two days of



1 testimony, which I cross-examined the father in New York in  
2 the Southern District, he spent two days on the witness stand  
3 as a cooperator with the US Attorney's Office making it very  
4 clear that he was taking money for years for the services of  
5 his son who was at that time 15, 16 years old; long before he  
6 even met any of these defendants in this case.

7 So there is a run -- we do run the risk that the  
8 evidence is just cumulative.

9 THE COURT: It may well be. I mean, when this case  
10 first came in, I thought, well, this is not going to be a  
11 tough case for discovery because everything is out there in  
12 sworn testimony, but I was wrong.

13 MR. HANEY: I would say there is other evidence  
14 that I would submit no other lawyer in this court has but me  
15 in my criminal discovery folder that is very supportive of  
16 our position that the father ruined this young man's  
17 basketball career when he was a 15-year-old. Had nothing to  
18 do with anything that happened when he was 17 or 18. He was  
19 already not -- his amateurism was destroyed by the dad when  
20 he was 15 years old and he had his hand out from everybody.

21 And we have a lot of evidence of that that is not  
22 discoverable, at least to my position based on what I'm  
23 encumbered by with a Protective Order. But to your point,  
24 Your Honor, I think it's very sound. I get--

25 THE COURT: Well, let me ask you this. What you're

1       telling me here in the courtroom --

2               MR. HANEY:   Yes.

3               THE COURT:   -- I think is a little bit different  
4       from what you told me in your brief.  In your brief you said,  
5       we really need this stuff, it's very exculpatory and we  
6       wanted it just as badly as the Plaintiff does, but we can't  
7       get it.  So...

8               MR. HANEY:   I believe it is exculpatory but  
9       arguably cumulative.  I believe that, you know, we do run the  
10      risk of beating a dead horse with it.  But yeah, I'd like to  
11      have it to be able to present it even further the point that  
12      the wrongdoer here was the dad.  The dad ruined the kid's  
13      career when he was a 15-year-old amateur basketball player  
14      back in Michigan playing AAU, not when he went to Louisville.

15              THE COURT:   Right.

16              MR. HANEY:   But I will do anything the judge, you  
17      know, believes is sound.  And I think as I mentioned to  
18      Mr. Ram, I think a stipulated order or some type of order for  
19      the Judges Kaplan and Ramos would provide us with that  
20      opportunity to present that evidence under seal and  
21      protection here through this Court.  I think that can rectify  
22      it.

23              THE COURT:   Well, I will enter an order before the  
24      week is over indicating that I would like to have those  
25      documents available down here and directing the parties to

1 file a joint motion in New York with my blessing asking for  
2 those documents, and I'll do that by the end of this week and  
3 then I'll give y'all -- how much time do you need to get  
4 your -- I want to move this case along.

5 14 days is very reasonable; isn't it? Fourteen days to  
6 get your order filed or your motion filed up there?

7 MR. RAM: I think that's reasonable, Your Honor.  
8 And just for the sake of -- so we're all on the same page  
9 about that, it's not just the documents that Mr. Dawkins is  
10 referred to in his initial disclosure, but for the sake of  
11 going to New York, we go to New York once and get all of the  
12 evidence that's under seal.

13 Is that your understanding, Your Honor?

14 THE COURT: Right.

15 MR. RAM: Okay.

16 THE COURT: Any other defendant want to be heard on  
17 that if you might be affected by this? All right. I'll file  
18 my order before the week is over, and you have got two weeks  
19 from the date of my order to get your motion filed in New  
20 York. All right?

21 MR. HANEY: Thank you, Your Honor.

22 THE COURT: All right. Now we come to the motion  
23 that presents these difficult Fifth Amendment issues. And  
24 actually it's the motion against Mr. Rivers who is not yet,  
25 not been charged, but Mrs. Barbier says her client is going